

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
UNITED STATES OF AMERICA, :
:
:
- against - :
:
PAUL CEGLIA, :
:
Defendant. :
:
-----X

12-CR-876 (VSB)
ORDER

VERNON S. BRODERICK, United States District Judge:

I am in receipt of the Government’s letter motion to hold production pursuant to Federal Rules of Criminal Procedure 16 and 17 in abeyance until Mr. Ceglia returns to the jurisdiction, (Doc. 162), and Mr. Ceglia’s letter response, (Doc. 163).

The Government shall promptly produce to Mr. Ceglia’s counsel all Rule 16 discovery that: (1) is in its possession as of March 8, 2015, (2) has not already been produced, and (3) would not prejudice or disclose the details of its ongoing investigation into Mr. Ceglia’s whereabouts. With respect to all discoverable materials that the Government has obtained or obtains after March 8, 2015, or that would prejudice its ongoing investigation into Mr. Ceglia’s whereabouts, production pursuant to Rule 16 may be held in abeyance until Mr. Ceglia’s return to the jurisdiction. I have broad discretion to defer Rule 16 discovery for good cause. *See Fed. R. Crim. P. 16(d)(1); United States v. Delia*, 944 F.2d 1010, 1018 (2d Cir. 1991); *see also United States v. Rom*, 528 F. App’x 24, 26 (2d Cir. 2013) (summary order). I find that Mr. Ceglia’s flight and the integrity of the ongoing investigation into his whereabouts constitute good cause to defer ongoing Rule 16 production. In any event, I will ensure that Mr. Ceglia and his counsel have adequate time to review additional discovery prior to trial. Defense counsel’s request for

leave to submit further briefing on the applicability of the fugitive disentitlement doctrine is denied.

Facebook, Inc., and Mark Elliot Zuckerberg shall promptly produce to defense counsel Robert Ross Fogg all production responsive to the previously issued Rule 17(c) subpoenas *duces tecum*, (*see* Docs. 137, 138), with any appropriate confidentiality designations under the Amended Protective Order. In addition to his obligations under the Amended Protective Order, Mr. Fogg shall not share the production or discuss its contents in any way with co-counsel Gil D. Messina until further order of the Court. This “wall” arrangement will be revisited upon Mr. Ceglia’s return to the jurisdiction. This Order does not preclude the parties from agreeing to additional protocols related to this “wall” arrangement.


In a separately filed order, I am authorizing the disclosure to the prosecution team of documents previously withheld by some of Mr. Ceglia’s former civil attorneys under a claim of attorney-client privilege.

Mr. Ceglia’s counsel has requested leave to move for an order authorizing the issuance of additional Rule 17(c) subpoenas *duces tecum* pertaining to Mr. Zuckerberg’s emails stored on Harvard University servers and Mr. Zuckerberg’s computer hard drives. The request for leave is denied. This denial is without prejudice to the renewal of the request upon Mr. Ceglia’s return to the jurisdiction. However, at this late stage, Mr. Ceglia must show good cause for the filing of additional substantive motions other than motions in limine, (*see* Doc. 135, at 49:1-12), and I note that counsel’s letter failed to provide a justification for Mr. Ceglia’s significant delay in making this request.

The Clerk of Court is respectfully directed to terminate the pending letter motion at Doc.
162.

SO ORDERED.

Dated: March 30, 2015
New York, New York


Vernon S. Broderick
United States District Judge

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/20/15

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA

ORDER FOR THE ISSUANCE OF
SUBPOENA *DUCES TECUM*
PURSUANT TO RULE 17

-v-

PAUL CEGLIA,
Defendant.

12-cr-876 (VSB)

Upon the application of the defendant, Paul Ceglia, the annexed affirmation of Robert Ross Fogg, Esq., and finding good cause thereof, it is hereby

ORDERED that pursuant to Rule 17(c) of the Fed.R.Crim.P., the annexed subpoena be issued to the following:

Mark Elliot Zuckerberg
Facebook Inc.
1601 Willow Rd,
Menlo Park, CA 94025

Directing production of the following:

- (1) All written contracts, agreements and addendums thereto, whether proposed, contemplated or in draft form, whether signed or not, endorsed or not, executed or not, including copies thereof, in whatever format, including electronic, paper, email or images thereof, between Mark Zuckerberg and Paul Ceglia or between companies managed or owned, in whole or part, by either Zuckerberg or Ceglia dating from January 1, 2003 through, up to and including July 29, 2004, without regard to the intended purpose or project covered therein.
- (2) The specific contract referenced in Zuckerberg's Monday, August 18, 2003, email 04:20:11, bates stamp 000760-761, wherein Mr. Zuckerberg states "[REDACTED]", and all copies thereof, no matter where the contract and its copies may reside and no matter what forms in which they may exist.
- (3) All electronic communications of Mr. Zuckerberg in your custody, possession or control, with their attachments, between January 1, 2003 and July 29, 2004 that relate or make reference to Agreements no matter what form in which they exist.

(For the purpose of this paragraph, Agreements shall mean all written contracts, agreements and addendums thereto, whether proposed, contemplated or in draft form, whether signed or not, endorsed or not, executed or not, including copies thereof, in whatever format, including electronic, paper, email or images thereof, between Mark Zuckerberg and Paul Ceglia or between companies managed or owned, in whole or part, by either Zuckerberg or Ceglia dating from January 1, 2003 through, up to and including July 29, 2004, without regard to the intended purpose or project covered therein.)

IT IS FURTHER ORDERED that the subpoena be complied with no later than 12:00 A.M./P.M., March 16, 2015. The subpoena may be complied with by having the information addressed to the attention of Robert Ross Fogg via: fax to (716) 852-6782; email to rfogg@rfogglaw.com; or mail to the Law Office of Robert Ross Fogg, Esq., LL.M., 69 Delaware Avenue, Suite 600, Buffalo, NY 14202.

Dated: New York, New York
February 20, 2015

SO ORDERED:



HONORABLE VERNON S. BRODERICK
UNITED STATES DISTRICT JUDGE

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/20/15

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA

ORDER FOR THE ISSUANCE OF
SUBPOENA DUCES TECUM
PURSUANT TO RULE 17

-v-

PAUL CEGLIA,
Defendant.

12-cr-876 (VSB)

Upon the application of the defendant, Paul Ceglia, the annexed affirmation of Robert Ross Fogg, Esq., and finding good cause thereof, it is hereby

ORDERED that pursuant to Rule 17(c) of the Fed.R.Crim.P., the annexed subpoena be issued to the following:

Facebook Inc.
1601 Willow Rd,
Menlo Park, CA 94025

Directing production of the following:

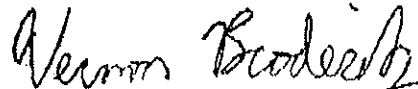
- (1) All written contracts, agreements and addendums thereto, whether proposed, contemplated or in draft form, whether signed or not, endorsed or not, executed or not, including copies thereof, in whatever format, including electronic, paper, email or images thereof, between Mark Zuckerberg and Paul Ceglia or between companies managed or owned, in whole or part, by either Zuckerberg or Ceglia dating from January 1, 2003 through, up to and including July 29, 2004, without regard to the intended purpose or project covered therein.
- (2) The specific contract referenced in Zuckerberg's Monday, August 18, 2003, email 04:20:11, bates stamp 000760-761, wherein Mr. Zuckerberg states "[REDACTED]" and all copies thereof, no matter where the contract and its copies may reside and no matter what forms in which they may exist.
- (3) All electronic communications of Mr. Zuckerberg in your custody, possession or control, with their attachments, between January 1, 2003 and July 29, 2004 that relate or make reference to Agreements no matter what form in which they exist.

(For the purpose of this paragraph, Agreements shall mean all written contracts, agreements and addendums thereto, whether proposed, contemplated or in draft form, whether signed or not, endorsed or not, executed or not, including copies thereof, in whatever format, including electronic, paper, email or images thereof, between Mark Zuckerberg and Paul Ceglia or between companies managed or owned, in whole or part, by either Zuckerberg or Ceglia dating from January 1, 2003 through, up to and including July 29, 2004, without regard to the intended purpose or project covered therein.)

IT IS FURTHER ORDERED that the subpoena be complied with no later than 12:00 AM (P.M.), March 16, 2015. The subpoena may be complied with by having the information addressed to the attention of Robert Ross Fogg via: fax to (716) 852-6782; email to rfogg@rfogglaw.com; or mail to the Law Office of Robert Ross Fogg, Esq., LL.M., 69 Delaware Avenue, Suite 600, Buffalo, NY 14202.

Dated: New York, New York
February 20, 2015

SO ORDERED:



HONORABLE VERNON S. BRODERICK
UNITED STATES DISTRICT JUDGE